

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 18-00813-CJC-KES

Date: November 12, 2020

Title: SECURITIES AND EXCHANGE COMMISSION V. PREMIER HOLDING, ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Cheryl Wynn
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

PROCEEDINGS: (IN CHAMBERS) ORDER DENYING DEFENDANTS' EX PARTE APPLICATION FOR LEAVE TO FILE SURREPLY [Dkt. 202]

On November 12, 2020, Defendants filed an ex parte application for leave to file a sur-reply to the SEC's reply in support of its motion for summary judgment. (Dkt. 202.) Defendants assert that the SEC's reply introduces new evidence and arguments which justifies a response. The Court disagrees.

"The decision to grant or deny leave to file a sur-reply is in the discretion of the court." *Great Am. Ins. Co. v. Berl*, 2017 WL 8180627, at *1 (C.D. Cal. Oct. 23, 2017). Courts allow a sur-reply only when a valid reason for additional briefing exists, like when a reply raises new arguments that require additional response. *Id.* "An argument is not new when it restates the same grounds and arguments as earlier briefings" or "when it is made in response to an issue raised in an earlier briefing." *Id.* (quotation marks and citations omitted). "Evidence submitted in direct response to evidence raised in opposition . . . is not new." *In re ConAgra Foods, Inc.*, 302 F.R.D 537, 559 n.87 (C.D. Cal. 2014) (quotations and citations omitted).

The SEC's reply does not raise new arguments or introduce new evidence which require additional response from Defendants, but instead directly responds to the arguments and evidence raised in Defendants extensive 60-page opposition. (*See* Dkt. 198 [Reply]; Dkt. 194 [Opposition].) To grant Defendants an opportunity to file a

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sur-reply would only allow them to exacerbate their already excessive briefing.
Accordingly, Defendants' ex parte application is **DENIED**.

jy

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